

Planning Commission Communication

Department: Community Development Case #SAV-16-002 Applicant: Tony Merksick 1703 28 th Avenue Council Bluffs, IA 51501	Resolution of Intent No. _____ Resolution to Dispose No. _____	Planning Commission: 05/10/16
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Subject

Request: Public hearing on the request of Tony Merksick to vacate and dispose of a section of South 17th Street right-of-way, lying south of the south right-of-way line of 28th Avenue and abutting Lot 1 and Outlot 1, Acosta Subdivision and also abutting Lots 19-26, Block 91, Railroad Addition.

Location: Between 1703 28th Avenue and 1619 28th Avenue

Background

The Community Development Department has received an application from Tony Merksick, owner of 1703 28th Avenue, to vacate and dispose of a 50' x 264' section of South 17th Street right-of-way, as legally described above. The applicant is requesting to vacate said right-of-way in order to construct a new detached garage on the east side of his property in conformance with R-1/Single-Family Residential District development standards.

The subject South 17th Street right-of-way is unimproved and dead-ends into Interstate 29 & 80 right-of-way. The right-of-way abuts private properties at 1703 28th Avenue (Lots 23-26, Block 91, Railroad Addition) and 1619 28th Avenue (Lot 1, Acosta Subdivision). It also abuts and provides access to four undeveloped lots owned by the applicant (Lots 19-22, Block 91, Railroad Addition) and one City-owned property, Outlot 1, Acosta Subdivision. Outlot 1, Acosta Subdivision was dedicated to the City for development control and to help screen/buffer the surrounding residential neighborhood from the interstate (see Case #SUB-07-010). The City has no plans to sell and/or develop said outlot at this time.

The following exhibits show the existing condition of the subject right-of-way and surrounding area.

Exhibit A: View of the unimproved South 17th Street right-of-way.



Exhibit B: View of the Outlot 1, Acosta Subdivision (located east of the subject right-of-way).



Exhibit C: 2013 aerial view of the subject South 17th right-of-way and surrounding properties.



Comments

All City departments and local utility providers were notified of the proposed vacation request. The following comments were received:

1. Public Works Department has no utilities in the subject right-of-way and is not opposed the request as long as the right-of-way is acquired by the abutting private property owners.

2. Public Health Department is concerned the proposed vacation will eliminate the City's primary means of access to Outlot 1, Acosta Subdivision. The Public Health Department requests that a minimum six foot-wide easement be reserved between properties at 1703 28th Avenue and 1619 28th Avenue to allow the City's mowing crews access to the outlot, if vacated.
3. Council Bluffs Water Works has no utilities within the subject right-of-way.
4. Mid-American Energy has no utilities within the subject right-of-way and is not opposed to the request.
5. Iowa Department of Transportation (IDOT) reviewed the request as a portion of the subject right-of-way is within an interstate preservation corridor. The IDOT is not opposed to the proposed request.

On August 25, 2003 the City Council amended the adopted *Policy and Procedures for Alley, Street and Right-of-way Vacations*. The objectives of the amended Policy are as follows:

1. *To provide due process and citizen participation in the application and review process for vacations.* All abutting property owners were notified and sent a petition to sign stating whether they are in favor of/opposed to the vacation and if they are willing/not willing to acquire the street right-of-way that abuts their property. The Community Development Department has received the following owner responses as of the date of this report:

- Tony and Donetta Merksick, owners of 1703 28th Avenue, stated they are in favor of the vacation and are willing to purchase the portion the portion of right-of-way that abuts their properties (Lots 19-26, Block 91, Railroad Addition) for the sum of \$1,475.00, if vacated.

Note: The 25' x 132' right-of-way section that abuts Outlot 1, Acosta Subdivision was not included in the owner's petition as it was unknown if the City needed to retain ownership. Since the date of the mailing the Community Development Department has determined that the City does not need to retain ownership of said right-of-way area, based on comments from City Departments and utility companies. The Community Development Department recommends that the applicant also purchase this additional right-of-way in order to not create a remnant section. The total sum cost for the applicant to acquire all the right-of-way that abuts his lots (Lots 19-26, Block 91, Railroad Addition) as well as the City's outlot is \$3,125.00.

The Community Development Department is still awaiting signed petitions from the following abutting property owner:

- Monica S. McClain, owner of 1619 28th Avenue. The property owner is eligible to purchase a 25'x132' section of the subject right-of-way for the sum of \$525.00, if vacated.
2. *To ensure that no property owner is deprived of required and reasonable access.* The subject right-of-way does provide required access to Outlot 1, Acosta Subdivision as well as four lots owned by the applicant (Lots 19-22, Block 91, Railroad Addition). If the vacation is granted said properties stated above will become land-locked. The outlot can still be accessed indirectly by the two City-owned lots along South 15th Street (Lots 21-22, Block 89, Railroad Addition). The applicant will need to replat his property (Lots 19-26, Block 91, Railroad Addition) as a minor subdivision so that access to South 17th Street is no longer necessary to said four lots.
 3. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way.* The request will not cause a dead-end street to be created.
 4. *To reduce or eliminate hazardous and dangerous traffic conditions.* Not applicable.

5. *To protect all existing and proposed public utilities located in the right-of-way and to maintain necessary utility easements.* No public utilities are located within the subject right-of-way area. The Public Health Department has requested a minimum six foot-wide easement be retained so that City's mowing crews can access Outlot 1, Acosta Subdivision.
6. *To maintain appropriate right-of-way width to ensure that an adequate pedestrian and vehicular circulation system is retained.* Not applicable.
7. *To discourage the vacation of a portion of an existing alley, street or other right-of-way.* Not applicable.
8. *To assist in the implementation of the goals and objectives of the Comprehensive Plan.* The request is consistent with the Bluffs Tomorrow: 2030 Plan (comprehensive plan).
9. *To reduce the City's maintenance liability on previously vacated right-of-way parcels from public improvement projects and various lots acquired through delinquent taxes or assessments.* Not applicable.
10. *To establish an equitable price for surplus public property consistent with the adopted policy.* Abutting property owners can acquire their portion of said street right-of-way for the amounts stated above.

Recommendation

The Community Development Department recommends approval to vacate and dispose of a 50'x264' section of South 17th Street right-of-way, lying south of the south right-of-way line of 28th Avenue and abutting Lot 1 and Outlot 1, Acosta Subdivision and also abutting Lots 19-26, Block 91, Railroad Addition, subject to the following conditions:

1. The applicant must acquire all portions of South 17th Street right-of-way that abuts Lots 19-26, Block 91, Railroad Addition and Outlot 1, Acosta Subdivision for a total sum of \$3,125.00;
2. The vacation shall not become effective until receipt of a replat of Lots 19-26, Block 91, Railroad Addition and the abutting South 17th Street right-of-way has been accepted by the Community Development Department.
3. The owner of 1619 28th Avenue (Lot 1, Acosta Subdivision) must acquire their portion of said South 17th Street right-of-way for \$525.00 or notify the City they are unwilling to purchase said right-of-way so that the applicant may purchase it; and
4. A minimum six-foot wide access easement must be reserved for the City to maintain Outlot 1, Acosta Subdivision.

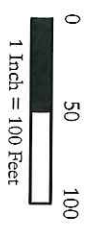
Attachment A – Zoning/location map of the subject right-of-way

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CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION LOCATION/ZONING MAP CASE #SAV-16-002

Map Legend

- Parcels
- Address



2013 Aerial Photograph



Note: The subject ROW is highlighted in red



Last Amended: 04/08/16

DISCLAIMER

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